parties as any other purchaser for value without notice. The word "trustee" apparently can give no notice of any equity in favor of the maker; nor is there any authority for such a notion. The way in which the courts treat such notes is shown in *Downer* v. *Read*, 19 Mich. 493, where the word "trustee" is said to be merely descriptive. Though this descriptive epithet cannot be said to be superfluous, for it does create a possible liability to persons claiming under the trustee, yet in a dispute between the parties to the note the epithet is immaterial. A trustee holding a note appears, in brief, to be in a position like that of an indorsee for collection, who is certainly entitled to pass on the note, subject always to the trust expressed by the indorser for collection. This view is not inconsistent with the decision in *Bank* v. *Lange*, *supra*, nor with *Nicholson* v. *Chapman*, 1 La. Ann. 222, and cases following it. The courts will in such cases give relief to the payee's *cestuis*, but not to the maker.

INJUNCTIONS AGAINST LIBELS. — It has been generally considered that the jurisdiction of equity over torts only extended to violations of property rights. Thus it was said by Lord Hardwicke, in *Huggonson's Case*, 2 Atk. 469, that equity would not enjoin a libel, unless it were also a contempt of court; and in 1873 a similar declaration was emphatically made in the case of *Prudential Assurance Co.* v. *Knott*, L. R. 10 Ch. 142. Five years later, however, it was stated in the cases of *Beddow* v. *Beddow*, 9 Ch. D. 92, and *Quartz Hill Mining Co.* v. *Beall*, 20 Ch. D. 501, that a libel might be in certain extreme cases restrained by injunction; this opinion was confirmed by the Court of Appeal in *Bonnard* v. *Perryman*, [1891] 2 Ch. 269; and such an injunction has actually been granted in a few cases, notably in *Monson* v. *Tussauds*, [1894] 1 Q. B. 671. This innovation on the practice of the Court of Chancery seems to have been considered in the opinions in the four cases just mentioned, as authorized by the Common Law Procedure Act of 1854, and the Judicature Act of 1873. Whether these Acts, which were apparently intended to regulate only matters of form, ought to be construed as conferring on any court powers which no court had ever possessed before, seems to be extremely doubtful. The propriety of such an interpretation of these Acts, and of the assertion on any ground of a power to enjoin libels, is vigorously denied in the February number of the Law Magazine and Review, in an article written by Mr. H. C. Folkard. These late cases nevertheless continue to represent the law in England; and the doubt whether they can properly be rested on statutory grounds, while from one point of view it simply suggests that these cases were erroneously decided, from another point of view seems to show that the jurisdiction of equity has actually been extended in an essential point without statutory aid.

The American courts have adhered strictly to the early practice of the Court of Chancery, except perhaps in the case of *Emack* v. *Kane*, 34 Fed. Rep. 46; and the late English cases have had no effect in this country, being treated as grounded on statutes. (See *Kidd* v. *Horry*, 28 Fed. Rep. 773.) Neither in the early English cases, however, nor in the American cases, which merely follow them, are any very satisfactory reasons given why a violation of a personal right, such as the right to one's reputation, ought never to be restrained by injunction, except that the courts have never in fact issued such injunctions. Such a remedy will very seldom be

required, as violations of personal rights are seldom acts of such a continuing nature as are properly the subjects of an injunction. Supposing, however, that such a continuing tortious act, likely to inflict irreparable injury, does clearly appear as it did in the case of *Monson* v. *Tussauds*, *supra*, it would seem desirable, at first sight, that an injunction should be issued, if it possibly can be. The impossibility, unlawfulness, or even impropriety of the courts thus spontaneously extending their equitable jurisdiction, would not seem to be beyond dispute. The fact that a libel is a crime, as well as a tort to an individual, would not apparently prevent equity from interfering to prevent it. Nor would the necessity of trying the question of the existence of the libel by a jury appear to prevent equity from furnishing relief of the peculiar nature that equity alone can give, when the particular circumstances might require it. There is no reason, however, to suppose that American courts of equity will soon, or indeed ever, unless by the aid of statutes, make such an innovation as to interfere for the protection of any but property rights.

CONTRADICTION OF DYING DECLARATIONS. — The recognized exceptions to the rule against hearsay rest on precedent rather than reason. According as judges are influenced chiefly by intimate knowledge of the history of the law of evidence, or by the desire to apply its principles on a basis of rationality which the authorities themselves do not warrant, these exceptions contract or expand in their application in various jurisdictions. But the tendency to restrict the scope of the exception known as "Dying Declarations" has been practically universal. Apparently the original reason for admitting this species of evidence lay in the belief that the solemn occasion of death furnished a guaranty of truth equal to an oath in court. To-day the exception is strictly limited to cases of the deceased's statements concerning the homicide which forms the subject of the charge, and the declarant must have realized himself beyond hope of life. Whether the modern strict application is due to the fact that the position of one *in articulo mortis* is no longer regarded with the same awe as formerly perhaps deserves consideration. Certain it is that the reason usually assigned for this exception at present is rather the necessity which requires this evidence to convict murderers against whom, from the nature of the crime, other testimony is often lacking, than any intrinsic value in what is said in anticipation of death.

In light of the foregoing considerations, the decision of the Supreme Court in *Carver* v. *United States*, 17 Sup. Ct. Rep. 228, is eminently satisfactory. It was there held that statements, themselves not admissible under any of the exceptions to the hearsay rule, might come in to impeach a dying declaration already admitted. The only possible exception that could be taken to this decision is, that it ignores the generally adopted rule that, in order to impeach the testimony of a witness by proof of previous contradictory statements, the witness must first be asked whether he made such statements. It is submitted that this objection is not a valid one. The rule ignored is one of practice rather than of evidence, and on principle should not be extended to the case of dying declarations. The necessity which requires the admission of the hearsay would seem to involve the abrogation of the rule that the witness be given a chance to explain or deny. In other words, if one exception be made, it is only fair to make a second. The argument to the contrary